

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 18-CR-20489

Plaintiff,

Hon. Thomas L. Ludington

v.

United States District Judge

JAMES D. PIERON, JR.,

Defendant.

\_\_\_\_\_ /

Motion for Release of Draft Presentence Report

For the reasons discussed below, the government asks that the court direct the U.S. Probation Office to release a draft presentence report for James D. Pieron, Jr., to counsel for the defendant and the government without waiting for the tax loss issue to be resolved. Counsel for the defendant did not respond to an email request for concurrence in this motion made on August 21, 2019.

Brief

James D. Pieron, Jr., was found guilty on March 7, 2019. Seeking to expedite the process of determining Pieron's offense score under the federal sentencing guidelines and thereby avoid an extended delay in sentencing, one of the attorneys for the government promptly suggested that the parties should brief the tax loss amount and have that issue resolved by the court before a draft presentence report was released to all counsel. Though the proposal was accepted

by the court, subsequent events have shown that the suggestion made by that government attorney was unwise.

Though the parties have submitted briefs, the tax loss issue currently is not scheduled to be addressed by the court until a series of hearings to be held between October 29 and October 31, 2019. As things now stand, if the court makes a finding regarding the tax loss amount at the conclusion of those hearings, and thereby enables the federal probation officer to insert that scoring factor into the draft presentence report and release the presentence report to counsel, only then will the two-week time period for objecting to the entirety of the report begin to run. The anticipated result is more delay in getting the defendant sentenced.

Notwithstanding the fact that the prior suggestion made by government's counsel in this matter has been shown to be counter-productive, government counsel dares to make another request in this motion. The government asks the court to grant this motion and direct the writer of Pieron's presentence report to release the draft report, even though the presentence report currently lacks recommended findings regarding Pieron's tax loss score (and obstruction of justice),<sup>1</sup> and to allow all counsel to make any comments or objections to the rest

---

<sup>1</sup> It is possible that something might occur in connection with the litigation of the tax loss issue or the presentence investigation process that would warrant an enhancement of Pieron's offense score for obstruction of justice. If the court were to find that obstructive conduct occurred during the tax loss hearing, that finding would also be included in the final presentence report.

of the draft presentence report. Additionally, the government asks that the court's order granting this motion provide that, to the extent that the court's findings regarding the tax loss amount are different from the positions taken by each party in briefing the tax loss issue, the tax loss calculations will be preserved for appeal, if an objection is made to the court's findings at the conclusion of the evidentiary hearings now scheduled for October.

Based on a discussion with the presentence report writer, the Pieron draft presentence report could be released within a week of a court order granting this motion. Releasing the draft report now would allow the parties to make any comments or objections to the contents of the draft report that they deem necessary, other than the tax loss amount, before the October hearings. It would also allow the probation officer to address any comments or objections made to the presentence report by the parties while waiting for the resolution of the tax loss issue. In turn, some progress would be made toward sentencing while the tax loss issue is pending resolution.

Conclusion

For the reasons given above, the relief sought in this motion should be granted.

Respectfully submitted,

Date: August 22, 2019

Matthew Schneider  
United States Attorney

s/Jules M. DePorre  
Jules M. DePorre (P73999)  
Assistant U. S. Attorney  
600 Church Street  
Flint, Michigan 48502-1280  
(810) 766-5026  
jules.deporre@usdoj.gov

s/Janet L. Parker  
Janet L. Parker (P34931)  
Assistant U.S. Attorney  
101 First Street, Suite 200  
Bay City, MI 48708  
(989) 895-5712  
janet.parker2@usdoj.gov

Certificate

On August 22, 2019, I filed the above document by using the Clerk of the Court's ECF system. The ECF system will automatically serve counsel of record.

s/Janet L. Parker